

AMENDED IN SENATE AUGUST 22, 2014

AMENDED IN SENATE JULY 1, 2014

AMENDED IN SENATE JUNE 15, 2014

AMENDED IN ASSEMBLY APRIL 11, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 983**

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**Introduced by Assembly Member Melendez**

February 22, 2013

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An act to amend Sections ~~21701~~, 21702.5, ~~21703~~, 21705, 21706, and 21713 of the Business and Professions Code, relating to self-service storage facilities.

### LEGISLATIVE COUNSEL'S DIGEST

AB 983, as amended, Melendez. Self-service storage facilities.

Existing law, the California Self-Service Storage Facility Act, specifies remedies and procedures for self-service storage facility owners when occupants are delinquent in paying rent or other charges. Under existing law, if rent or other charges due from an occupant remain unpaid for 14 consecutive days, an owner may terminate the right of the occupant to the use of the storage space at a self-service storage facility by sending a preliminary lien notice by certified mail to the occupant's address. After sending a notice, the owner may, within 14 days of the termination date specified in the preliminary lien notice, deny the occupant access to the space, enter the space, and remove property to safekeeping. Existing law specifies procedures for an owner to enforce the lien following receipt of a declaration in opposition to a lien sale. Existing law provides that an owner may sell the property

subject to lien if the occupant cannot be contacted or served at the address provided in the declaration.

~~This bill would allow the owner to send the preliminary lien notice by electronic mail if specified conditions are met. This bill would allow an owner to have a vehicle, watercraft, or trailer, subject to lien, towed from the premises if rent and other charges have not been paid for 60 days and the required notice has been sent and would revise the time period within which that notice is to be sent. This bill would make technical changes to the declaration in opposition to lien sale and would require an additional notice to be sent under specified conditions. sale.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 21701 of the Business and Professions~~  
2     ~~Code is amended to read:~~  
3     ~~21701. For the purposes of this chapter, the following terms~~  
4     ~~shall have the following meanings:~~  
5     ~~(a) “Self-service storage facility” means real property designed~~  
6     ~~and used for the purpose of renting or leasing individual storage~~  
7     ~~space to occupants who are to have access to the space for the~~  
8     ~~purpose of storing and removing personal property or for storing~~  
9     ~~individual storage containers provided to occupants who have~~  
10    ~~exclusive use of the container for the purpose of storing and~~  
11    ~~removing personal property, whether or not the individual storage~~  
12    ~~containers are transported pursuant to Section 21701.1. Self-service~~  
13    ~~storage facility does not include a garage or other storage area in~~  
14    ~~a private residence. No occupant may use a self-service storage~~  
15    ~~facility for residential purposes. A self-service storage facility is~~  
16    ~~not a warehouse, nor a public utility, as defined in Section 216 of~~  
17    ~~the Public Utilities Code. If an owner issues a warehouse receipt,~~  
18    ~~bill of lading, or other document of title for the personal property~~  
19    ~~stored, the owner and the occupant are subject to the provisions~~  
20    ~~of Division 7 (commencing with Section 7101) of the Commercial~~  
21    ~~Code, and the provisions of this chapter do not apply.~~  
22    ~~(b) “Owner” means the owner, operator, lessor, or sublessor of~~  
23    ~~a self-service storage facility, his or her agent, or any other person~~  
24    ~~authorized by him or her to manage the facility, or to receive rent~~

1 from an occupant under a rental agreement, and no real estate  
2 license is required.

3 (e) “Occupant” means a person, or his or her sublessee,  
4 successor, or assign, who is entitled to the use of the storage space  
5 at a self-service storage facility under a rental agreement, to the  
6 exclusion of others.

7 (d) “Rental agreement” means any written agreement or lease  
8 which establishes or modifies the terms, conditions, rules, or any  
9 other provision concerning the use and occupancy of a self-service  
10 storage facility.

11 (e) “Personal property” means movable property not affixed to  
12 land, and includes, but is not limited to, goods, merchandise,  
13 furniture, and household items.

14 (f) “Last known address” means that postal address or electronic  
15 mail address provided by the occupant in the latest rental  
16 agreement, or the postal address or electronic mail address provided  
17 by the occupant in a subsequent written notice of a change of  
18 address.

19 **SEC. 2.**

20 **SECTION 1.** Section 21702.5 of the Business and Professions  
21 Code is amended to read:

22 21702.5. (a) Any lien on a vehicle or vessel subject to  
23 registration or identification under the Vehicle Code that has  
24 attached and is set forth in the documents of title to the vehicle or  
25 vessel shall have priority over any lien created pursuant to this  
26 chapter.

27 (b) Any lien created pursuant to this chapter on a vehicle or  
28 vessel subject to registration or identification under the Vehicle  
29 Code shall be enforced in accordance with Section 3071 of the  
30 Civil Code, in the case of a vehicle, or Section 503 of the Harbors  
31 and Navigation Code, in the case of a vessel, and not as prescribed  
32 in Sections 21705 to 21711, inclusive.

33 (c) Any lien created pursuant to this chapter on a vehicle or  
34 vessel subject to registration or identification under the Vehicle  
35 Code shall not include any charges for rent, labor, or other services  
36 incurred pursuant to the rental agreement, accruing more than 60  
37 days after the date the lien imposed pursuant to this chapter  
38 attaches, as set forth in Section 21705, and before application is  
39 made for authorization to conduct the lien sale pursuant to the

1 requirements of Section 3071 of the Civil Code or Section 503 of  
2 the Harbors and Navigation Code.

3 (d) Any proceeds from a lien sale shall be disposed of pursuant  
4 to Section 3073 of the Civil Code, in the case of a vehicle, or  
5 Section 507.5 of the Harbors and Navigation Code, in the case of  
6 a vessel.

7 (e) In addition to the right to foreclose on the vehicle, watercraft,  
8 or trailer, the owner may have the vehicle, watercraft, or trailer  
9 towed from the premises if rent and other charges have not been  
10 paid for 60 days and the notice required in Section 21703 has been  
11 sent. Not less than 10 days before having the vehicle towed, the  
12 owner shall send notice by first-class mail with certificate of  
13 mailing to the occupant's last known address, ~~or by electronic mail~~  
14 ~~to the occupant's last known electronic mail address; address~~  
15 stating the name, address, and telephone number of the towing  
16 company and the street address of the location where the towed  
17 property can be redeemed. When the towing company takes  
18 possession of the vehicle, watercraft, or trailer, the owner shall not  
19 be liable for the property or damage to the property. The towing  
20 company shall be in compliance with Section 12520 of the Vehicle  
21 Code, and shall act in accordance with Section 22658 of the  
22 Vehicle Code in removing the property.

23 ~~SEC. 3. Section 21703 of the Business and Professions Code~~  
24 ~~is amended to read:~~

25 ~~21703. (a) If any part of the rent or other charges due from an~~  
26 ~~occupant remain unpaid for 14 consecutive days, an owner may~~  
27 ~~terminate the right of the occupant to the use of the storage space~~  
28 ~~at a self-service storage facility by sending a notice to the~~  
29 ~~occupant's last known postal address or electronic mail address~~  
30 ~~and to the alternative postal address or electronic mail address~~  
31 ~~specified in subdivision (b) of Section 21712.~~

32 ~~(b) The notice shall be sent by certified mail, postage prepaid,~~  
33 ~~or by regular first-class mail if the owner obtains a certificate of~~  
34 ~~mailing indicating the date the notice was mailed or by electronic~~  
35 ~~mail. The notice shall contain all of the following:~~

36 ~~(1) An itemized statement of the owner's claim showing the~~  
37 ~~sums due at the time of the notice and the date when the sums~~  
38 ~~became due.~~

39 ~~(2) A statement that the occupant's right to use the storage space~~  
40 ~~will terminate on a specified date (not less than 14 days after the~~

1 mailing of the notice) unless all sums due are paid by the occupant  
2 prior to the specified date.

3 ~~(3) A notice that the occupant may be denied access to the~~  
4 ~~storage space after the termination date if the sums are not paid~~  
5 ~~and that an owner's lien, as provided for in Section 21702, may~~  
6 ~~be imposed thereafter.~~

7 ~~(4) The name, street address, and telephone number of the owner~~  
8 ~~or his or her designated agent whom the occupant may contact to~~  
9 ~~respond to the notice.~~

10 ~~(e) The owner shall not send the notice required by this section~~  
11 ~~by electronic mail to the occupant's last known address or~~  
12 ~~alternative address unless all of the following occur:~~

13 ~~(1) The occupant expressly agrees to notice by electronic mail.~~

14 ~~(2) The rental agreement executed by the occupant specifies in~~  
15 ~~bold type that notices will be given to the occupant by electronic~~  
16 ~~mail.~~

17 ~~(3) The owner provides the occupant with the electronic mail~~  
18 ~~address from which notices will be sent and directs the occupant~~  
19 ~~to modify his or her electronic mail settings to allow electronic~~  
20 ~~mail from that address to avoid any filtration systems.~~

21 ~~(4) The owner notifies the occupant of any change in the~~  
22 ~~electronic mail address from which notices will be sent prior to~~  
23 ~~the address change.~~

24 ~~SEC. 4.~~

25 *SEC. 2.* Section 21705 of the Business and Professions Code  
26 is amended to read:

27 21705. (a) If the notice has been sent as required by Section  
28 21703 and the total sum due has not been paid within 14 days of  
29 the termination date specified in the preliminary lien notice, the  
30 lien imposed by this chapter attaches as of that date and the owner  
31 may do all of the following:

32 (1) Deny an occupant access to the space.

33 (2) Enter the space.

34 (3) Remove any property found therein to a place of safekeeping.

35 (b) Upon taking the actions described in subdivision (a), the  
36 owner shall send to the occupant, by certified mail, or by first-class  
37 mail if the owner obtains a certificate of mailing, postage prepaid,  
38 ~~or by electronic mail~~, addressed to the occupant's last known  
39 address, and to the alternative address specified in subdivision (b)  
40 of Section 21712, both of the following:

1 (1) A notice of lien sale that states all of the following:

2 (A) That the occupant's right to use the storage space has  
3 terminated and that the occupant no longer has access to the stored  
4 property.

5 (B) That the stored property is subject to a lien, the current  
6 amount of the lien, and that the lien will continue to increase if  
7 rent is not paid.

8 (C) That the property will be sold to satisfy the lien after a  
9 specified date that is not less than 14 days from the date of mailing  
10 the notice, unless the occupant executes and returns by certified  
11 mail a declaration in opposition to lien sale in the form set forth  
12 in paragraph (2).

13 (D) A statement that the occupant may regain full use of the  
14 space by paying the full lien amount prior to the date specified in  
15 subparagraph (C).

16 (E) That any excess proceeds of the sale over the lien amount  
17 and costs of sale will be retained by the owner and may be  
18 reclaimed by the occupant or claimed by another person at any  
19 time for a period of one year from the sale and that thereafter the  
20 proceeds will escheat to the county in which the sale is to take  
21 place.

22 (2) A blank declaration in opposition to lien sale that shall be  
23 in substantially the following form:

24  
25 "DECLARATION IN OPPOSITION TO LIEN SALE

26  
27 You must complete all sections of this declaration. If the owner cannot contact  
28 or serve you at the physical address and telephone number that you provide  
29 below, this declaration shall be void and the owner may sell your stored  
30 property.

31  
32 I, \_\_\_\_\_, have received the notice of lien sale  
33 (occupant's name)  
34 of the property stored at \_\_\_\_\_ .  
35 (location and space #)

36 I oppose the lien sale of the property, because (provide a brief explanation  
37 of the reason the owner's lien may not be valid. For example, "I have paid my  
38 rent and other charges in full"):

39 \_\_\_\_\_  
40 \_\_\_\_\_

My current address and telephone number are:

(physical address)\_\_\_\_\_

(city)\_\_\_\_\_

(state)\_\_\_\_\_

(ZIP Code)\_\_\_\_\_

(telephone number)\_\_\_\_\_

I understand that the lienholder may file an action against me in any court of competent jurisdiction, including small claims court, at the address provided above, and if a judgment is given in his or her favor, I may be liable for the court costs. I also understand that this declaration is not valid if (a) the address provided in this declaration is not my current address or (b) I change my address at any time prior to service of an action on the lien and I do not provide the owner the address within 10 days of the change.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was signed by me on \_\_\_\_\_ at \_\_\_\_\_ .  
(date) (place)

\_\_\_\_\_  
(signature of occupant)

Return this declaration to:  
(self-service storage facility address)”

~~(e) If the owner sends the notice required under subdivision (b) to the occupant’s last known electronic mail address and does not receive a reply or receipt of delivery, the owner shall send a second notice to the occupant’s last known postal address by certified mail, or by first-class mail if the owner obtains a certificate of mailing, postage prepaid.~~

~~SEC. 5.~~

*SEC. 3.* Section 21706 of the Business and Professions Code is amended to read:

21706. If a declaration in opposition to the lien sale, executed under penalty of perjury, is not received by the owner on or prior to the date specified in the notice of lien sale by certified mail, is not completed and signed by the occupant, or if the occupant withdraws the declaration in opposition to the lien sale in writing, the owner may, subject to Sections 21708 and 21709, sell the property upon complying with the requirements set forth in Section 21707.

1     ~~SEC. 6.~~

2     *SEC. 4.* Section 21713 of the Business and Professions Code  
3 is amended to read:

4     21713. This chapter shall not be construed to impair or affect  
5 the right of the parties to create additional rights, duties, and  
6 obligations in and by virtue of the rental agreement, including, but  
7 not limited to, the right to limit the value of the property the  
8 occupant may store in the storage space. The rights provided by  
9 this chapter shall be in addition to all other rights provided by law  
10 to a creditor against his or her debtor.